



County of Los Angeles CHIEF EXECUTIVE OFFICE

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WILLIAM T FUJIOKA
Chief Executive Officer

March 11, 2008

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

Dear Supervisors:

**DEPARTMENT OF PUBLIC WORKS: ALAMITOS BARRIER PROJECT
AMENDMENT NO. 1 TO RECLAIMED WATER AGREEMENT
(SUPERVISORIAL DISTRICT 4)
(3 VOTES)**

IT IS RECOMMENDED THAT YOUR BOARD:

Approve and delegate authority to the Acting Director of Public Works or his designee to sign Amendment No. 1 to the existing reclaimed water Agreement No. 74570 with the Orange County Water District and the Water Replenishment District of Southern California that strengthens indemnification against damage. The existing Agreement No. 74570 describes the terms and conditions for accepting reclaimed water into the Alamitos Barrier Project located in the City of Long Beach.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

The purpose of the recommended action is to strengthen the indemnification of the Los Angeles County Flood Control District (LACFCD) and the Orange County Water District (OCWD) from the Water Replenishment District of Southern California (WRD) that may arise as a result of accepting reclaimed water at the Alamitos Barrier Project (ABP).

Board of Supervisors
GLORIA MOLINA
First District

YVONNE B. BURKE
Second District

ZEV YAROSLAVSKY
Third District

DON KNABE
Fourth District

MICHAEL D. ANTONOVICH
Fifth District

Implementation of Strategic Plan Goals

The Countywide Strategic Plan directs that we provide Service Excellence (Goal 1) by using more reclaimed water at the barrier to reduce the region's dependency on imported water supplies and Fiscal Responsibility (Goal 4) by strengthening our indemnification of any adverse changes on the quality of water in the groundwater basin that may arise as a result of using reclaimed water.

FISCAL IMPACT/FINANCING

There will be no impact to the County General Fund. As part of the existing Agreement No. 74570 and Amendment No. 1, additional costs incurred by the LACFCD for maintaining or operating the ABP will be paid by WRD.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

LACFCD jointly owns the ABP with the OCWD. The ABP consists of a series of injection and observation wells that prevent ocean water from migrating into essential groundwater basins used for domestic water supply purposes. The Los Angeles County Department of Public Works (Public Works) operates and maintains these existing facilities for LACFCD and OCWD.

Historically, the Metropolitan Water District of Southern California (MWD) had provided imported water for the ABP injection operations. However, the threat of droughts, the increased demand on our local and imported potable water supplies, and the improved treatment and availability of reclaimed water led to the proposed injection of reclaimed water into the ABP. In July 2003, your Board approved and signed the original reclaimed water agreement, Public Works Agreement No. 74570, describing the terms and conditions for accepting reclaimed water paid for by WRD and OCWD into the ABP to reduce the dependency upon imported water supplies and to increase the overall reliability of water supplies to the region.

The existing Agreement No. 74570 provides for WRD to reimburse Public Works for any unforeseen damages or increased maintenance costs that may occur at the ABP as a result of the reclaimed water injection. However, as the proportion of reclaimed water used for injection increases, concern related to the potential changes in the quality of water in the groundwater basin has also increased. The recommended Amendment No. 1 strengthens the LACFCD's and OCWD's indemnification from WRD and includes claims pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. Section 9607 et seq.) ("CERCLA"), and

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under Chapter 6.5 of Division 20 of the California Health and Safety Code (commencing with Section 25100) that arise as a result of the implementation of the existing Agreement No. 74570. The attached Amendment No. 1 has been approved as to form by County Counsel.

ENVIRONMENTAL DOCUMENTATION

In accordance with Section 15378(b)(5) of the California Environmental Quality Act (CEQA) Guidelines, approval of the recommended action does not constitute a project and, hence, is not subject to the requirements of CEQA.

The WRD previously prepared an Environmental Impact Report that found no significant impacts resulting from the injection of the reclaimed water.

CONTRACTING PROCESS

Not applicable.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

There will be no negative impact on current County services or projects.

CONCLUSION

Please return one adopted copy of this letter to the Department of Public Works, Water Resources Division.

Respectfully submitted,



WILLIAM T FUJOKA
Chief Executive Officer

DEJ:DLW
RHK:vt

Attachment

c: County Counsel, Orange County Water District,
Department of Public Works (Watershed Management, Waterworks)
Water Replenishment District of Southern California

**AMENDMENT NO. 1 TO AGREEMENT NO. 74570
BETWEEN
THE COUNTY OF LOS ANGELES,
THE ORANGE COUNTY WATER DISTRICT,
AND
THE WATER REPLENISHMENT DISTRICT OF SOUTHERN CALIFORNIA
REGARDING RECLAIMED WATER SERVICE TO
THE ALAMITOS BARRIER PROJECT**

The County of Los Angeles, acting on behalf of the Los Angeles County Flood Control District (LACFCD), the Orange County Water District (OCWD), and the Water Replenishment District of Southern California (DISTRICT), hereby agree to amend Agreement No. 74570, originally entered into on August 5, 2003, as follows:

Delete ARTICLE 6 – INDEMNIFICATION, Item 6.1, in its entirety, and replace it to read as follows:

In addition to observing any other obligations to release, indemnify, defend, and save harmless contained elsewhere in this AGREEMENT, each party (the INDEMNIFYING PARTY) agrees to release, indemnify, defend, and save harmless LACFCD and OCWD (the INDEMNIFIED PARTIES), including the INDEMNIFIED PARTIES' Boards, officers, special districts, supervisors, agents, employees, contractors, and consultants, from and against all claims, damages (including, without limitation special and consequential damages), injuries, costs, response costs, losses, demands, debts, liens, liabilities, causes of action, judgments, suits, legal and administrative proceedings, interest, fines or increases in fines, charges, penalties and expenses (including without limitation reasonable attorneys', engineers', consultants' and expert witness fees and costs incurred in defending against any of the foregoing or in enforcing this Agreement) of any kind or of any nature whatsoever (collectively, "Claims"), paid, incurred, or suffered by any Indemnified Party or asserted against any Indemnified Party, directly or indirectly arising from or attributable to

- (i) The reclaimed water in connection with Agreement No. 74570;
- (ii) The quality of the reclaimed water in connection with Agreement No. 74570;
- (iii) The design, construction, maintenance, and operation of a connection or facility used in connection with Agreement No. 74570;
- (iv) Any condition in the injection wells or in the formation receiving injection water caused by the reclaimed water injected in connection with Agreement No. 74570 or INDEMNIFIED PARTIES' activities relating thereto, in whole or in part; and
- (v) Claims relating to any Permit, including, without limitation, relating to any violation of any Permit or the failure to obtain any Permit in connection with Agreement No. 74570.

The foregoing is intended as a broad indemnity that includes, without limitation:

- 1) Claims relating to changes in water quality within the groundwater basin that arise as a result of the implementation of Agreement No. 74570; and
- 2) Claims pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. Section 9607 et seq.) ("CERCLA"), and under Chapter 6.5 of Division 20 of the California Health and Safety Code (commencing with Section 25100) that arise as a result of the implementation of Agreement No. 74570.

If the Claim is litigated, arbitrated, or mediated, and the trier of fact makes a finding regarding the proportional allocation of liability among the parties to the AGREEMENT, the parties agree to pay for the part of the Claim for which the trier of fact has found that party proportionally liable subject to affirmation by any appeal procedure that may be pursued.

If the injury in question is found to be caused by one or more of the parties' willful misconduct, then only those parties who perpetrated that willful misconduct will be responsible for paying the claim. Notwithstanding the foregoing, no party shall be responsible to release, indemnify, defend, or hold harmless any other party for the breach of this AGREEMENT, negligence, or willful misconduct of the latter party, its Boards, officers, special districts, supervisors, directors, agents, employees, representatives, contractors, or consultants.

IN WITNESS WHEREOF, each party hereto has caused this AGREEMENT to be executed by its duly authorized officer or official.

LOS ANGELES COUNTY FLOOD
CONTROL DISTRICT
a body corporate and politic

By _____
Chief Engineer

APPROVED AS TO FORM:

RAYMOND G. FORTNER, JR.
County Counsel

By _____
Deputy

**WATER REPLENISHMENT DISTRICT
OF SOUTHERN CALIFORNIA**

Signature
Albert Robles

Print Name
President, Board of Directors

Title

Signature
Sergio Calderon

Print Name
Secretary, Board of Directors

Title

**Approved As To Form
WESTON, BENSHOOF, ROCHEFORT,
RUBALCAVA & MACCUISH, LLP**

Attorneys for the Water Replenishment
District of Southern California

ORANGE COUNTY WATER DISTRICT

Signature
Philip Anthony

Print Name
President, Board of Directors

Title

Signature
Mike Markus

Print Name
General Manager

Title

Approved As To Form
Rutan and Tucker

Attorneys for the Orange County Water District